

MELANIE PEREZ	:	SUPERIOR COURT
<i>Plaintiff</i>	:	
	:	JUDICIAL DISTRICT OF WINDHAM
v.	:	AT PUTNAM
	:	
STATE OF CONNECTICUT	:	
JUDICIAL DEPARTMENT	:	
<i>Defendant</i>	:	July 24, 2015

**REPLY TO PLAINTIFF'S OBJECTION TO DEFENDANT'S
MOTION TO DISMISS**

The defendant, State of Connecticut Judicial Branch, hereby submits this Reply to the Plaintiff's Objection to the Defendant's Motion to Dismiss. On April 27, 2015, the defendant moved to dismiss the plaintiff's claims for punitive damages, interest and damages for the "depletion of personal savings" on the grounds of sovereign immunity. The defendant also requested that this matter be moved to the proper venue of the Judicial District of Hartford. On July 2, 2105, the plaintiff filed an Objection, arguing that damages for emotional distress, interest and punitive damages are proper and should not be dismissed.¹ Plaintiff also argues that Windham/Putnam is the appropriate venue for this matter. The defendant now files this Reply and requests that the court grant its Motion to Dismiss.

I. PLAINTIFF'S ARGUMENT REGARDING PUNITIVE DAMAGES, INTEREST AND SAVINGS IS WITHOUT MERIT

The plaintiff argues that she is entitled to punitive damages, interest and damages for the depletion of her savings account. As the defendant pointed out in the Motion to Dismiss, however, the plaintiff is not entitled to these damages because the state is protected from such damages by the doctrine of sovereign immunity.

¹ It is unclear why the plaintiff brought up the issue of emotional distress in her Objection. The defendant did not address emotional distress damages in its Motion to Dismiss. Plaintiff goes so far as to quote language from the defendant's brief regarding emotional distress. See Plaintiff's Objection, p. 3. This supposed quoted language does not appear in the defendant's brief.

In support of this argument, the defendant cites to Chouhan v. University of Connecticut Health Center, Docket Number No. CV096002439S, 2013 WL 6335273, at *11 (Wiese, J., November 5, 2013). Defendant's Memorandum of Law in Support of Motion to Dismiss, p. 5. The plaintiff claims that Chouhan should not be followed because the court did not engage in an analysis regarding interest as it relates to § 46a-104. This argument, however, is incorrect and meritless. The plain reading of Chouhan demonstrates that the court did in fact analyze Chouhan's claim that he was entitled to interest pursuant to § 46a-104. On page 11 of the court's decision, the court expressly addresses whether the plaintiff may be awarded interest in the context of § 46a-104. The court stated the following: "The defendant argues that sovereign immunity bars the plaintiff's claim for punitive damages and interest against the state pursuant to General Statutes § 46a-104." *Id.* at *11. After analyzing the plaintiff's claim for punitive damages under § 46a-104, the court went on to state:

Furthermore, the reasoning of the Appellate Court in *Ware* with regard to punitive damages equally applies to the plaintiff's claim for interest. See, e.g., *Struckman v. Burns*, 205 Conn. 542, 558–59, 534 A.2d 888 (1987) (statutory waiver of sovereign immunity from suit not waiver of immunity from prejudgment interest), citing *State v. Chapman*, 176 Conn. 362, 366, 407 A.2d 987 (1978) ("In the absence of a specific statutory provision allowing the taxation of costs against the state, this court is required to adhere to the widely recognized principle that statutes relating to costs and authorizing the imposition of costs in various kinds of actions or proceedings, or under various prescribed circumstances, which do not in express terms mention the state, are not enough to authorize imposing costs against the state"). (Emphasis added). *Id.*

Clearly, the Chouhan court addressed the issue of interest under § 46a-104, and decided that interest was not permitted under said statute. The plaintiff's argument to the contrary that the Chouhan court did not do this is perplexing and should be disregarded.

Significantly, the plaintiff fails to address the defendant's argument that the plaintiff is not entitled to punitive damages and utterly fails to address the appellate court's decision in Ware. Thus, the court should treat the plaintiff's failure to address the argument as the plaintiff's

abandonment of any argument that would oppose the defendant's argument. See Thomas v. DiBianco, No. CV136038484S, 2014 WL 1187835, at *5 (*Wilson, J.*, February 25, 2014) (citing Ward v. Greene, 267 Conn. 539, 839 A.2d 1259 (2004). ("Analysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly.")).

II. PLAINTIFF'S ARGUMENT REGARDING VENUE IS UNAVAILING

The plaintiff argues that the venue in which this complaint was brought is proper. Plaintiff's argument is unavailing and misses the point of the statute, Conn. Gen. Stat. § 46a-100, which clearly notes the exception that....."any action involving a state agency or official may be brought in the superior court for the judicial district of Hartford." Defendant Judicial Branch is clearly a state agency and the proper venue for this action, is the Judicial District of Hartford. Further, plaintiff is not a Connecticut resident, her residence being in Massachusetts, so bringing this action in the Judicial District of Windham at Putnam is equally not applicable.

III. CONCLUSION

For the foregoing reasons, as well as the reasons that are set forth in the Motion to Dismiss, the defendant, State of Connecticut Judicial Branch, hereby respectfully requests that the court grant its Motion to Dismiss regarding plaintiff's claims for punitive damages, interest and "depletion of personal savings." In the alternative, defendant moves that the case be dismissed or in the alternative transferred to the Judicial District of Hartford.

DEFENDANT

STATE OF CONNECTICUT
JUDICIAL DEPARTMENT

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CERTIFICATION

I hereby certify that on July 24, 2015 a copy of the foregoing Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss was mailed, first class postage prepaid and sent via electronic mail, to the following:

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